

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SITO MOBILE R&D IP, LLC, and
SITO MOBILE, LTD.,

Plaintiffs,

v.

SFA HOLDINGS INC. f/k/a/ SAKS
INCORPORATED,

Defendant.

Case No. 1:23-cv-00688-RP

**DECLARATION OF MICHAEL J. ZINNA IN SUPPORT OF
DEFENDANT'S MOTION TO STAY**

I, Michael J. Zinna, declare as follows:

1. I am a lawyer admitted to practice before the courts of the States of New York and New Jersey and in the Western District of Texas, and am a partner at Kelley Drye & Warren LLP, counsel of record for Defendant SFA Holdings Inc. f/k/a Saks Incorporated ("Saks").
2. I submit this declaration in support of Defendant's Motion to Stay.
3. I have personal knowledge of the following facts except where otherwise indicated, and if called upon as a witness, I could and would competently testify thereto.
4. SFA Holdings Inc. is incorporated in Tennessee, has no offices or employees in Texas, and does not own or operate any stores in Texas, or elsewhere.
5. Saks is a customer of Bambuser AB ("Bambuser"), who created, licensed, white-labeled, and supplied Saks with video streaming technology.
6. On August 22, 2023, after receiving notice of the above-captioned lawsuit, Saks requested Bambuser defend and indemnify Saks pursuant to the terms of the agreement governing Saks and Bambuser's relationship.

7. On or around September 8, 2023, based upon the information in the Complaint and the information provided by Saks, Bambuser agreed to defend Saks in relation to the above-captioned suit and indemnify Saks for any infringement by Bambuser's video-streaming product.

8. No other technology vendor has agreed to defend or indemnify Saks in relation to the above-captioned action.

9. Saks merely uses the Bambuser product in furtherance of its business operations and plays no role in the creation of the accused technology supplied by Bambuser.

10. On November 1, 2023, Bambuser filed a declaratory judgment action in the United States District Court for the District of New Jersey concerning the validity and infringement of the same six patents asserted in the above-captioned lawsuit (the "Declaratory Suit"). The Declaratory Suit is captioned: *Bambuser AB v. SITO Mobile R&D IP, LLC and SITO Mobile, Ltd.*, C.A. No. 2:23-cv-21757.

11. Saks agrees to be bound by the outcome of the Declaratory Suit.

12. Pursuant to Local Rule CV-7(g), counsel for Bambuser, acting in defense of Saks, met and conferred with counsel for Plaintiff from November 13, 2023 through November 27, 2023. Counsel for Plaintiff stated that Plaintiff does not believe a stay is warranted under the circumstances as they understand them at this time.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: December 13, 2023

By

A handwritten signature in black ink, appearing to read "Michael J. Zinna", is written over a horizontal line.

Michael J. Zinna